

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, at 8:00 P.M., and there were

PRESENT: **ANTHONY ESPOSITO, MEMBER**
JOSEPH GIGLIA, MEMBER
RICHARD QUINN, MEMBER
ARLIE SCHWAN, MEMBER
ROBERT THILL, MEMBER
JEFFREY LEHRBACH, CHAIRMAN

ABSENT: **WILLIAM MARYNIEWSKI, MEMBER**
RICHARD SHERWOOD, TOWN ATTORNEY

ALSO PRESENT: **JOHANNA M. COLEMAN, TOWN CLERK**
LEONARD CAMPISANO, ASSIST. BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted

PETITION OF MARRANO/MARC EQUITY CORPORATION:

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the amended petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for one [1] variance for the purpose of constructing a single family dwelling on premises owned by the petitioners at 47 Apple Blossom Boulevard (Sub Lot #95), Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Peachtree Court with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a thirty-one [31] foot north exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty-five [35] foot north exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests a four [4] foot north exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Victor Martucci, the petitioner	Proponent
Vice President, Marrano/Marc Equity Corporation	

Jerome Imiola, 4 Peachtree Court	Proponent
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IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ESPOSITO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Receipt by the Building Inspector and members of the Zoning Board of Appeals of a letter from the president of Marrano Marc Equity Corp., the petitioner, setting forth in specific detail what actions have been or will be taken by the petitioner in the development of future subdivisions in the Town of Lancaster which would eliminate the need for front yard, side yard and exterior side yard variances on corner lots.
- Sublot #5, which is east of this lot, will be restricted to a dwelling which fronts on Willow Tree.

BE IT FURTHER

RESOLVED that the granting of this variance shall not waive any of the requirements of Chapter 50, Section 35 C. "Fences and Walls" as set forth in the Code of the Town of Lancaster, and

BE IT FURTHER

RESOLVED that this variance shall become effective upon compliance with condition #1, as set forth herein, to the satisfaction of the Town Attorney of the Town of Lancaster and the Building Inspector of the Town of Lancaster who shall so inform this board in writing of their satisfaction with said conditions as herein enumerated.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 11, 2003

PETITION OF MARRANO/MARC EQUITY CORPORATION:

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the amended petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for one [1] variance for the purpose of constructing a single family dwelling on premises owned by the petitioners at 49 Summerfield Drive (Sub Lot #39), Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Summerfield Drive with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a thirty-one [31] foot east exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty-five [35] foot east exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests a four [4] foot east exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Victor Martucci, the petitioner

Proponent

Vice President, Marrano/Marc Equity Corporation

IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. THILL
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the requested variance has been modified to lessen the impact to the neighbors to the west.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Receipt by the Building Inspector and members of the Zoning Board of Appeals of a letter from the president of Marrano Marc Equity Corp., the petitioner, setting forth in specific detail what actions have been or will be taken by the petitioner in the development of future subdivisions in the Town of Lancaster which would eliminate the need for front yard, side yard and exterior side yard variances on corner lots.

BE IT FURTHER

RESOLVED that the granting of this variance shall not waive any of the requirements of Chapter 50, Section 35 C. "Fences and Walls" as set forth in the Code of the Town of Lancaster, and

BE IT FURTHER

RESOLVED that this variance shall become effective upon compliance with the aforementioned condition, as set forth herein, to the satisfaction of the Town Attorney of the Town of Lancaster and the Building Inspector of the Town of Lancaster who shall so inform this board in writing of their satisfaction with said conditions as herein enumerated.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 11, 2003

PETITION OF MARRANO/MARK EQUITY CORPORATION:

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the amended petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for one [1] variance for the purpose of constructing a single family dwelling on premises owned by the petitioners at 24 Apple Blossom Boulevard (Sub Lot #62), Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Apple Blossom Boulevard with an exterior side yard [considered a front yard equivalent] fronting on Sugar Mill Court. The location of the proposed dwelling will result in a thirty-one [31] foot east exterior side yard set back on Sugar Mill Court.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a 35 foot east exterior side yard set back on Sugar Mill Court. The petitioner, therefore, requests a four [4] foot east exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Victor Martucci, the petitioner
Vice President, Marrano/Marc Equity Corporation

Proponent

IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY CORPORATION

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. ESPOSITO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity Corporation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Receipt by the Building Inspector and members of the Zoning Board of Appeals of a letter from the president of Marrano Marc Equity Corp., the petitioner, setting forth in specific detail what actions have been or will be taken by the petitioner in the development of future subdivisions in the Town of Lancaster which would eliminate the need for front yard, side yard and exterior side yard variances on corner lots.

BE IT FURTHER

RESOLVED that the granting of this variance shall not waive any of the requirements of Chapter 50, Section 35 C. "Fences and Walls" as set forth in the Code of the Town of Lancaster, and

BE IT FURTHER

RESOLVED that this variance shall become effective upon compliance with the aforementioned condition, as set forth herein, to the satisfaction of the Town Attorney of the Town of Lancaster and the Building Inspector of the Town of Lancaster who shall so inform this board in writing of their satisfaction with said conditions as herein enumerated.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 11, 2003

PETITION OF MARRANO/MARC EQUITY CORPORATION:

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224 for one [1] variance for the purpose of constructing a single family dwelling on premises owned by the petitioners at 46 Summerfield Drive (Sub Lot #70), Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Summerfield Drive with an exterior side yard [considered a front yard equivalent] fronting on Apple Blossom Boulevard. The location of the proposed dwelling will result in a thirty-two [32] foot east exterior side yard set back on Apple Blossom Boulevard.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a 35 foot east exterior side yard set back on Apple Blossom Boulevard. The petitioner, therefore, requests a three [3] foot east exterior side yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Victor Martucci, the petitioner	Proponent
Vice President, Marrano Marc/ Equity Corporation	

IN THE MATTER OF THE PETITION OF MARRANO/MARC EQUITY

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. LEHRBACH
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Marrano/Marc Equity and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought without significant financial harm.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- Receipt by the Building Inspector and members of the Zoning Board of Appeals of a letter from the president of Marrano Marc Equity Corp., the petitioner, setting forth in specific detail what actions have been or will be taken by the petitioner in the development of future subdivisions in the Town of Lancaster which would eliminate the need for front yard, side yard and exterior side yard variances on corner lots.
- Sublot # 27, which is north of this lot, will be restricted to a dwelling which fronts on Ashwood Court.

BE IT FURTHER

RESOLVED that the granting of this variance shall not waive any of the requirements of Chapter 50, Section 35 C. "Fences and Walls" as set forth in the Code of the Town of Lancaster, and

BE IT FURTHER

RESOLVED that this variance shall become effective upon compliance with condition #1, as set forth herein, to the satisfaction of the Town Attorney of the Town of Lancaster and the Building Inspector of the Town of Lancaster who shall so inform this board in writing of their satisfaction with said conditions as herein enumerated.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 11, 2003

PETITION OF MICHAEL & MARISA HARDING:

THE 5th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Michael & Marisa Harding, 60 Stony Brook Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 60 Stony Brook Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot with an exterior side yard [considered a front yard equivalent] fronting on Westbury Lane. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Westbury Lane.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Michael Harding, the petitioner 60 Stony Brook Drive Lancaster, New York 14086	Proponent
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James Vandergrift 1 Westbury Lane Lancaster, New York 14086	Opponent
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Thomas Luksch 3 Westbury Lane Lancaster, New York 14086	Opponent
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Peter Idzik 56 Stony Brook Drive Lancaster, New York 14086	Opponent
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Cheryl Calire 4 Westbury Lane Lancaster, New York 14086	Comments
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Luanne Vandergrift 1 Westbury Lane Lancaster, New York 14086	Opponent
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IN THE MATTER OF THE PETITION OF MICHAEL & MARISA HARDING

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael & Marisa Harding and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of September 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

NOW, THEREFORE, BE IT

RESOLVED that this hearing be adjourned to allow for further testimony and evidence to be presented.

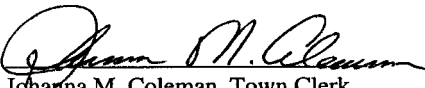
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the adjournment of this hearing was thereupon
ADOPTED.

September 11, 2003

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:43 P.M.

Signed 
Johanna M. Coleman, Town Clerk
Dated: September 11, 2003